

## SENATE BILL NO. 4

INTRODUCED BY K. HANSEN

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING THE LEGAL RESPONSIBILITIES OF PARTICIPANTS IN RECREATIONAL ACTIVITIES AND OF ORGANIZERS AND SPONSORS OF COMPETITIVE EVENTS INVOLVING RECREATIONAL ACTIVITIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Purpose.** The legislature finds that participation in recreational activities is a significant industry in this state and recognizes that among the attractions of many recreational activities are risks, inherent and otherwise. The state has a legitimate interest in maintaining the economic viability of the recreational activities industry by discouraging claims based on damages resulting from risks inherent in recreational activity. It is the policy of the state of Montana that a person is not liable for damages sustained by another solely as a result of risks inherent in recreational activity if those risks are or should be reasonably obvious, expected, or necessary to persons engaged in recreational activity.

**NEW SECTION. Section 2. Dangerous recreational activity -- duties -- liability limitations -- exceptions.** (1) A participant in recreational activity or in a competitive event involving recreational activity shall at all times act in a manner that avoids injury to self and others and must be aware of the inherent risks in the activity.

(2) A participant in recreational activity or in a competitive event involving recreational activity shall accept all legal responsibility for injury or damage of any kind to the extent that the injury or damage results from risks inherent in the recreational activity.

(3) A person who organizes or sponsors a competitive event involving recreational activity owes a duty of reasonable care, as required by 27-1-701, to participants of the event except for the risks inherent in the recreational activity. The organizer or sponsor has no duty to eliminate, alter, control, or lessen the risks inherent in the recreational activity. An organizer or sponsor of a competitive recreational event who is negligent and causes foreseeable injury to a participant bears responsibility for that injury in accordance with other applicable

1 law.

2 (4) The liability limitation provided in subsection (3) does not apply if the organizer or sponsor of a  
3 competitive event involving recreational activity:

4 (a) provided the equipment and the equipment caused the injury because the organizer or sponsor  
5 failed to reasonably and prudently inspect or maintain the equipment;

6 (b) provided the equipment and failed to make reasonable and prudent efforts to determine the ability  
7 of the participant to safely engage in the recreational activity and the participant's ability to safely manage the  
8 equipment based on the participant's representations as to the participant's ability;

9 (c) owned, leased, rented, or otherwise was in lawful possession and control of the land or facilities upon  
10 which the participant sustained injuries caused by a dangerous latent condition that was known or should have  
11 been known to the organizer or sponsor;

12 (d) committed an act or omission that constituted willful or wanton disregard for the safety of the  
13 participant and the act or omission caused the injury; or

14 (e) intentionally injured the participant.

15 (5) The provisions of this section do not affect a products liability cause of action based upon the design  
16 or manufacture of equipment or products or safety equipment used incidental to the recreational activity.

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18 **NEW SECTION. Section 3. Dangerous recreational activity -- applicability exceptions.** [Sections  
19 1 and 2] do not apply to duties, responsibilities, liability, or immunity related to:

20 (1) recreational use of waters or land, as provided in 23-2-321;

21 (2) snowmobiling, as provided in 23-2-653 and 23-2-654;

22 (3) skiing, as provided in 23-2-733 through 23-2-736;

23 (4) off-highway vehicle operation, as provided in 23-2-822;

24 (5) instruction in firearms and hunter safety or hunter education, as provided in 27-1-721;

25 (6) equine activity, as provided in 27-1-727;

26 (7) sponsored rodeo and similar events, as provided in 27-1-733;

27 (8) amusement rides, as provided in 27-1-743 and 27-1-744;

28 (9) recreational use of land, as provided in 23-2-907, 70-16-302, 77-1-805, 87-1-266, 87-1-267, and  
29 87-1-286;

30 (10) wildcrafting, as provided in 76-10-106; and

(11) placement of a sign or marker warning of a hazard in water legally accessible to the public, as provided in 87-1-287.

**NEW SECTION.** **Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, part 7, apply to [sections 1 through 3].

**NEW SECTION.** **Section 5. Effective date.** [This act] is effective on passage and approval.

**NEW SECTION.** **Section 6. Applicability.** [This act] applies to injuries and deaths that occur on or after [the effective date of this act].

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